

# Panel to Vote By Tuesday on Court Choices

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The Senate Judiciary Committee worked out an agreement yesterday to vote no later than noon Tuesday on the President's two Supreme Court nominees.

In two hours of parliamentary maneuvering behind closed doors, the committee scheduled the final vote after refusing, by 10-to-5 votes, to reopen hearings or to consider William H. Rehnquist apart from Lewis F. Powell Jr.

With a one-week delay for the printing of majority and minority opinions, the confirmation schedule indicates that the nominations will reach the Senate floor Nov. 30 and come up for debate and final vote before Congress adjourns for the year.

Powell, a 64-year-old Richmond lawyer, appears to have no opposition in the Senate, but Rehnquist, 47, assistant attorney general for legal counsel, has stirred criticism for his views on civil rights and civil liberties.

Supporters of Rehnquist consented yesterday to have the nominee answer in writing further questions about his philosophy and new questions about alleged harassment of minority voters in Phoenix and alleged connections with right-wing organizations in Arizona.

Chairman James O. Eastland (D-Miss.) agreed to cooperate with Sen. Birch Bayh (D-Ind.), a leading Rehnquist critic, by asking the FBI to check further into suggestions from recently discovered documents that Rehnquist was a member of the right-wing Arizona for America in 1960.

Both Eastland and Attorney

General John N. Mitchell have declared that the FBI's investigation of Rehnquist makes clear that he was not a member. Rehnquist has specifically denied membership in the John Birch Society.

Bayh said he expected to find that Rehnquist had not belonged to the Arizona group, which he said had an "Impeach Earl Warren" approach and may have been a precursor of the John Birch Society. But Bayh wondered why the nominee couldn't issue his own denial. "He

shouldn't need the Attorney General as a baby sitter," the senator told newsmen.

Later John V. Tunney (D-Calif.), a committee member, became the first senator to announce publicly that he will oppose Rehnquist.

Tunney said he is ready to vote without waiting for more evidence because he is satisfied that Rehnquist "does not have the fidelity to the Bill of Rights that a Supreme Court justice must have."

"I believe that he places a very low value upon fundamental principles of equality and individual liberties," Tunney said. "His justification of a vast expansion of the Subversive Activities Control Board, his defense of unrestricted governmental surveillance, his rationale for preventive detention, all of these demonstrate that he is quite the reverse of a 'strict constructionist.'"

Instead of construing the Constitution literally, Tunney said, Rehnquist "seems quite willing to read into the powers of the Executive Branch an unrestricted latitude which threatens the very basis of individual freedoms." He said he felt that Rehnquist, in contrast to Powell, "is essentially closed-minded."

In yesterday's 10-to-5 voting, Bayh and Tunney were joined by Seps. Philip A. Hart (D-Mich.), Edward M. Kennedy (D-Mass.) and Quentin N. Burdick (D-S.D.) in the minority.

Bayh said he was not attempting to filibuster within the committee but was still trying to complete the hearing record. Another committee member, Sen. John L. McClellan (D-Ark.), said a filibuster would have been impractical in view of the Senate's power to discharge the nominations from the committee.